



ARIZONA STATE SENATE
Fifty-Second Legislature, Second Regular Session

AMENDED
FACT SHEET FOR H.B. 2288

constables; duties; training; discipline

Purpose

Modifies the process and manner in which a constable may be disciplined by the Constable Ethics Standards and Training Board and establishes the office of Presiding Constable.

Background

In Arizona, a constable is an officer of the county justice court whose primary duty is to execute actions on behalf of the court such as: conducting evictions; serving and returning processes, warrants, notices, orders of protection, summons and subpoenas; seizing, storing or selling property to satisfy a judgement; and providing security for the court. Although constables are certified by the Arizona Peace Officers Standards and Training Board, their authority as a peace officer is limited to the performance of their official duties and therefore generally do not perform traditional law enforcement duties such as conducting criminal investigations.

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Constable Ethics Standards and Training Board

1. Modifies membership of the Constable Ethics Standards and Training Board, except that all current members may complete their terms, by:
 - a) removing one constable from a county of less than one million persons and one constable from a county with one million or more persons;
 - b) replacing the Governor appointed sheriff with the Director of the Arizona Peace Officer Standards and Training Board (AZPOST) or his designee; and
 - c) allowing a constables association to appoint the constable members of the board, instead of the Arizona Association of Counties.
2. Allows the board to discipline a constable for inappropriate behavior by:
 - a) urging him to resign, instead of retire as currently prescribed;
 - b) placing him on probation for up to 30 days and extending that probation in 30-day increments up to 180 days if the constable is making progress; or
 - c) if the constable has been placed on probation before, recommending to the Board of Supervisors that the constable be suspended without pay for a period of time up to the remainder of his term.

3. Allows the board to compel by subpoena the attendance of constables as witnesses in relation to any investigation or hearing.
4. Allows the Board of Supervisors to accept or modify a recommendation to suspend a constable without pay for a period of time up to the remainder of his term and makes the determination final except that a constable may seek judicial review of a final order for suspension.
5. Requires the board to refer an investigation to the County Attorney and submit its findings if determined that a constable has committed a criminal act and to adjudicate a complaint using allowable remedies for disciplining a constable if the County Attorney determines that a crime was not committed or does not file a criminal complaint.
6. Removes language allowing the board to submit a report to the County Attorney if the board is not satisfied with the allowable remedies for disciplining a constable.
7. Specifies that the section outlining the board's disciplinary process does not preclude a prosecuting agency from filing charges against a constable.
8. Requires the Board of Supervisors to withhold a constable's pay while he is suspended without pay.

Presiding Constable

9. Requires constables in counties with four or more constables to select a Presiding and Associate Presiding Constable by majority vote.
10. Requires the Presiding Constable to:
 - a) serve as liaison between the constables, the County Manager and other departments;
 - b) assign deputy constables;
 - c) assign and manage clerical staff for constables; and
 - d) reassign court orders to other constables when a constable is absent.
11. Allows the Associate Presiding Constable to perform the duties and exercise the powers of the Presiding Constable when the Presiding Constable is absent or unable to act.
12. Allows constables to remove and select a new Presiding or Associate Presiding Constable to complete the current term by majority vote at any time.
13. Establishes two-year terms for Presiding and Associate Presiding Constables.
14. Stipulates that the county is not required to pay any costs to support the Presiding or Associate Presiding Constable in the performance of their duties.

General

15. Specifies that constables must maintain a *standardized daily activity log* and that the original must be filed by the 10th day of each month with the clerk of the Board of Supervisors and removes the requirement that work logs be filed with the clerk of the Justice Court.

16. Requires the Board of Supervisors to adopt a *standardized daily activity log* that is approved by the Director of AZPOST and determine the manner in which the logs are to be filed.
17. Clarifies that constables must serve and return all processes, warrants and notices issued to them by a Justice of the Peace or another competent authority within their county.
18. Adds to the definition of *constable*, a deputy constable who is appointed, employed or authorized by the County Board of Supervisors.
19. Makes technical and conforming changes.
20. Becomes effective on the general effective date.

Amendments Adopted by Committee

1. Modifies the membership of the Constable Ethics Standards and Training Board and the manner in which the ethics board may discipline a constable and what authority the Board of Supervisors has in relation to disciplinary action taken by the ethics board.
2. Adds all provisions relating to Presiding and Associate Presiding Constables.
3. Adds provisions relating to the use of *standardized daily activity logs*.

Amendments Adopt by Committee of the Whole

1. Allows a statewide constables association to appoint constable members to the Constables Ethics Standards and Training Board, instead of the Arizona Association of Counties.
2. Allows the ethics board to recommend that a constable be suspended without pay for a period of time that is less than the remainder of the constable's term.
3. Requires, instead of allows, constables to select a Presiding Constable and removes procedures for the County Board of Supervisors to appoint one if a vacancy exists.
4. Stipulates that the county is not required to pay any costs to support the Presiding or Associate Presiding Constable in the performance of their duties.

House Action

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3rd Read 2/25/16 60-0-0-0

Senate Action

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